

**FISHER ISLAND MUNICIPAL ADVISORY COMMITTEE
COMMITTEE MEETING**

UNAPPROVED MINUTES FOR
WEDNESDAY, NOVEMBER 30, 2005

FISHER ISLAND TENNIS CENTER

1. Call to Order

With MAC Chair, Ira Ostrow presiding, the November 30, 2005 Fisher Island MAC meeting was called to order at 6:17 PM.

2. Role Call

Present were the following:

Javier Acosta

Jorge Garcia

Ira Ostrow

Carolyn Sakolsky

3. Approval of Minutes

Mr. Ostrow calls for a motion to approve the minutes of the 6/22/05 and 8/24/05. Mr. Acosta moves that the minutes be approved as submitted and Ms. Sakolsky seconds the motion. Vote is taken and the minutes are approved.

The November 9, 2005 minutes will be distributed at the next meeting.

4. General Discussion - Conceptual Agreement

Mr. Ostrow asks Jason Rodriguez what is the next step to completing the conceptual agreement.

Mr. Rodriguez informs that now that Ms. Sakolsky has distributed the draft of the conceptual agreement to the MAC members, the document needs to be discussed by the MAC to ensure that everyone is in agreement with the content of the conceptual agreement. This discussion is the next step.

Mr. Rodriguez further explains that once the discussion as to the content takes place and any updates are done, then he can present a more complete document to those that will be commenting on it on his end.

Ms. Sakolsky reviews the contents of the conceptual agreement draft. She explains that she adjusted a portion of the agreement to be more of a disclosure

of non participation. This is because the FI is not expecting anything from the county. She also needs the address for the Miami Dade Police Department location that services FI and the Water and Sewer Department address.

Ms. Sakolsky explains that the agreement explains that FI is not expecting any services from the county the same way it does not receive services now.

Mr. Garcia asks if the document covers the mitigation issue.

Ms. Sakolsky responds that it is referenced on the document, but there is no formula or provision at this point.

Mr. Garcia informs that he was very comfortable with what he read in the conceptual agreement and that the only thing missing is the legal description of Fisher Island. He doesn't know if further discussion is needed.

Mr. Ostrow asks Jason Rodriguez if he is seeking that the MAC vote on approval of the conceptual agreement and ask him to present it to the parties involved.

Mr. Rodriguez informs that he will take the agreement to the appropriate parties, if the MAC feels that the document has been discussed and everyone is in agreement.

Members discuss including the description of boundaries and map that was provided at a much earlier meeting as an attachment to the conceptual agreement.

Mr. Garcia points out that the map shows some roads that belong to Miami Beach. He feels this can be confusing. He feels that the map is incorrect.

Ms. Sakolsky explains that if an area is dedicated to a city or governing body, that area is controlled by that governing body.

Mr. Garcia brings up the issue that if an area is dedicated to a city the county should have this recorded. If so, then something is wrong with the map because those dedicated areas are not showing on the map. They all say Miami Beach.

Mr. Ostrow feels the legal description provided is of the boundaries of Fisher Island not the roadways. He does feel that the map does not represent the present day situation and needs to be revised.

Ms. Sakolsky explains that if they become incorporated they will have to annex any roads owned by Miami Beach.

Mr. Garcia asks Mr. Rodriguez if he can get from Public Works the legal description of the roads inside the boundaries. Mr. Garcia would also like all MAC members to be copied on the document.

Mr. Rodriguez informs that he will bring copies and present this information at a MAC meeting.

Mr. Ostrow states that the description being discussed was provided by the Miami Beach clerk. This is not the Miami Dade impression of Fisher Island.

Mr. Rodriguez informs that he contacted Public Works and requested an explanation as to the remark at the bottom of the description. The explanation he was given that the Public Works goes to the state for recording a jurisdiction and in many cases the state refers the request to the municipality in which there is a question. In this case there was a question as to what is owned by Miami Beach. By using the information from Miami Beach, public works was able to extract from the island what is owned by Miami Beach.

Mr. Rodriguez explains that in the description anything owned by Miami Beach has already been excluded.

Ms. Sakolsky asks Mr. Rodriguez if he can find out when those roads were dedicated. She feels that would be helpful.

Mr. Garcia suggests not including the map with the legal description until the MAC has a corrected version. He feels that the conceptual agreement will be coming back to the MAC with suggestions anyway and perhaps at that time the boundaries issue will be more clear.

Mr. Ostrow wants everyone to agree on what they want Mr. Rodriguez to help the MAC with on this issue. Mr. Ostrow states this would be a boundaries map reflecting the existing roadway and the description the MAC believes to be adequate to go with the conceptual agreement.

Ms. Sakolsky feels this is important because if Miami Beach was given these roads, then Miami Beach would be the controlling government for those little pieces of the island. It is a matter of jurisdiction.

Mr. Garcia agrees that these issues must be clarified.

Jason Rodriguez explains that in clarification to Ms. Sakolsky's comments, first Miami Beach would have to de-annex the property, it goes back to the county and

then is annexed to Fisher Island.

Ms. Sakolsky explains this does not affect the incorporation, because FI would incorporate the unincorporated area.

Mr. Ostrow points out that Miami Beach has been very helpful so far.

Ms. Sakolsky asks if land can go from city to city or does it have to go city to county to city. Mr. Rodriguez responds this is correct.

Mr. Rodriguez says he will bring this issue to the Public Works Department.

Mr. Ostrow asks Mr. Rodriguez to please do his best to obtain an adequate representation concerning the boundaries and platting and jurisdiction so the MAC can add it to the conceptual agreement.

Mr. Rodriguez thinks it may be a good idea for a representative from Public Works to attend the next meeting and have a conversation with MAC members, because of their expertise. This person may be helpful in answering questions.

Mr. Ostrow feels this is a good direction to move in.

Mr. Acosta asks if anyone present has ever seen anyone from Miami Beach worked on these roads.

Ms. Sakolsky recalls that perhaps one time money was accepted from Miami Beach to resurface the road. Her concern is that tax dollars should not be accepted.

Mr. Ostrow feels that this could have been a developer decision at the time.

Mr. Ostrow asks if everyone is in agreement that the conceptual agreement is fine as written with the exception of the matters discussed that need to be added.

MAC members agree.

5. General Discussion

Registered Voters: Mr. Ostrow acknowledges that the registered voters on FI are a small percentage of the population of the island. The 2000 census was a much smaller number of registered voters than it is today. At that time there were 200 something registered voters. Prior to the 2004 election the registered voters were

over 340.

Mr. Rodriguez informs that the commission uses the 2000 census for the "Impact to UMSA". The Elections Department of Miami-Dade County uses the registered voters that are registered at the time of an election.

Mr. Ostrow states he was under the impression that if there were to be a vote tomorrow it would be based on the total number of registered voters existing as of today.

Rodriguez: Correct.

Mr. Ostrow: Feels that at the meeting of November 9, there was some confusion as to how that was explained. Mr. Ostrow feels that some people left feeling that the number of voters would be directly related to the 2000 census.

Mr. Rodriguez feels if this statement was misconstrued because there was a lot of fervor in the room and people were not really paying attention. So it is very likely that there was a misunderstanding.

Mr. Rodriguez wants to clarify for the record that as of November 15, 2005 there are 318 voters in unincorporated Fisher Island. This information comes from the Elections Department. This does not include Villa del Mar, because those are Miami Beach voters. This number is 318 as of November 15th. In a year this number can change for several reasons.

Mr. Garcia feels that someone needs to inform the entire commission of this number because he was at a meeting where the entire commission was laughing and the chairman actually made comments that there were only 25 voters on Fisher Island, and that it was ridiculous, that he holds more people in his house than people would come to an election on Fisher Island.

Mr. Garcia wants to know how the commissioners can be more informed as to what the MAC is doing, because some of the commissioners he has spoken to have no clue as to what the facts are. Mr. Garcia points out that this doesn't stop the fact that in those two meetings of August and September are now public fact that the chairman of the commission thought there were only 25 voters on Fisher Island. Mr. Garcia voices that he finds this to be dumbfounding because he can't understand how someone of that caliber that is representing voters can be so misinformed by his staff.

Mr. Ostrow suggests sending a simple letter to the Board of County

Commissioners stating that as of November 15, 2005 there are 318 registered voters, etc. and that any past misunderstandings should be corrected in their minds.

Ms. Sakolsky suggests that a copy of that letter also go to the residents of Fisher Island and say this is why we want to incorporate.

Mr. Garcia informs that the video clips are available at fisherislandvillage.org

Mr. Garcia feels that there is a misconception of the Fisher Island community and they don't really go a step further other than to say what they've heard without really informing themselves on what the facts really are.

Mr. Garcia makes the distinction that not all the commissioners were out of the loop. There were certain commissioners that were totally out of the loop. Mr. Garcia points out that Commissioner Javier Soto was an example of someone who was really misinformed, yet he can keep things from moving forward if he is not properly informed.

Ms. Sakolsky feels it is very important to lobby Fisher Island's commissioner more than anyone else.

Mr. Ostrow reiterates that the MAC should be sent to the commissioners. Mr. Garcia makes a motion to send the letter regarding the 318 voters and asking them to rectify their records.

Mr. Rodriguez wants to clarify that the MAC wants to write a letter to address the county commissioners and requesting that they rectify the records.

Ms. Sakolsky seconded Mr. Garcia's motion. Mr. Garcia will write the letter. A vote was taken and it was unanimously passed.

Clarification on proposed boundary changes: Mr. Rodriguez explains that there is a lot of confusion on this subject. The question came up as to whether the county could annex the unincorporated boundaries of Fisher Island without the public ever knowing if Fisher Island had less than 250 voters. The answer is yes, but it is part of the requirement for such action to take place Section 20-9 of the County Code titled Election of Proposed Boundary Changes. Mr. Rodriguez quoted from this section which states that *if the boundary changes or annexation are proposed in an area that has 250 or fewer resident electors, and the area is more than 50 percent developed residential, no proposed boundary change shall be accomplished unless the majority of resident electors voting at such an election*

approve such boundaries.

Mr. Rodriguez further explains that this means that the answer he gave at the last meeting was erroneous, because the boundary commission could not automatically annex the unincorporated Fisher Island to another municipality without the voting of the people of Fisher Island because the second requirement will not allow it to be so, as the island is already 50 percent developed residential.

Discussion for Clarification of Privacy Guarantee Once Incorporated: Mr. Ostrow states that this issue came up at the meeting of November 9th, suggestions were mentioned and now this committee must decide on how to approach this matter.

Following the last meeting of the MAC, Ms. Sakolsky developed a letter addressed to Mr. Greenberg, the lead county attorney regarding the issue of privacy.

Mr. Ostrow reads the letter to the MAC members. The letter refers to Mr. Greenberg's opinion on privacy and the MAC asks him to review the matter and confirm or modify his opinion so that the MAC can be fully informed on the matter. The letter addresses the fact that Fisher Island is comprised of privately owned properties and discusses the public vs. private areas. The letter reiterates that if Fisher Island incorporates they will use no taxpayer money for improvement of roads, repairs or services. The letter also explains that the island is accessible by water and that a small isolated area for the city hall with the intention that it will be public and open to everyone; and that the attempt will be made to have the perimeter road rededicated back to Fisher Island. The letter asks if with these facts in place, Mr. Greenberg is of the opinion that Fisher Island will remain private with the exception of the City Hall and the beaches to the high water line.

Ms. Sakolsky explains that a court will not give an opinion on something that is not yet an issue. This is why she feels this would be the first step.

Mr. Garcia expresses his opinion that there should not be an issue with privacy as long as there is no tax money being used for repairs, improvements, etc. and the properties are privately owned. This compares to how Villa del Mar is annexed to Miami Beach, but Miami Beach does not provide public access into Villa del Mar – because it is private property.

A question is raised regarding the UMSA taxes, etc. Mr. Rodriguez explains that there are two taxes: the UMSA taxes and the county taxes. When Fisher Island becomes a municipality the taxes of the municipality will be that 2.47% or whatever millage rate the governing body of FI sets it at, but that tax will then be paid to the

municipality of FI by the taxpayers. The taxpayers will pay the municipality.

Mr. Ostrow and Ms. Sakolsky express different opinions on how the municipality handles tax payment, etc. The issue arises whether Fisher Island is considered public if it receives back taxes from the county.

Mr. Garcia expresses that it is not as long as the money is used for the designated public areas, city hall, etc. He uses Indian Creek as an example. They use the money to fund public matters such as police, public boundaries, etc.

Mr. Ostrow explains he feels the difference is the way the dollars are routed. For example he pays his taxes to Miami-Dade and they refund the municipality a portion of the UMSA taxes. Therefore the municipality is taking Miami-Dade money. The county can even send in auditors to see how funds are being used.

Mr. Ostrow feels that money that comes back can perhaps be refunded to the residents.

Mr. Garcia believes that will never work for the commissioners.

Ms. Sakolsky states that the issue is that the commissioners want to know that the city can support itself, etc. She feels as long as money that comes back is used appropriately the commission would not have a problem with this.

Ms. Sakolsky feels that the purpose for incorporation is self-governance.

Mr. Garcia agrees and reiterates that the privacy already exists, because if his condominium owns almost two acres of land and is private today, if the island incorporates it is still private; because the police and city have no business going into those private areas unless asked because it is still private.

Ms. Sakolsky explains that what is done with money received back from UMSA will decide what is private and not.

Mr. Garcia states that this is why it is important to determine boundaries, etc.

Mr. Ostrow feels that once the letter is sent and a response is received this issue will be revisited and responded to by saying what if we don't use the money that comes back and refund it back to the taxpayers; since we have our own ability to fund island matters. Does this make us public or private? Mr. Ostrow feels this is a good route to go. Once the responses are in the letters will be published for

public review.

Ms. Sakolsky suggests inviting Mr. Greenberg to a meeting, but suggests waiting to see what he responds to the letter.

Mr. Ostrow asked Mr. Rodriguez to convey to Mr. Greenberg when he hands him the letter, the importance of a rapid response.

Miami Dade County Resolution Requiring Third Party MAC Budget Analysis:

Mr. Rodriguez informs members that Miami-Dade County has a contract with a third party, (PMG and Associates) who is now in the process of analyzing three budget analyses prepared by other MACs and they will be giving the county an update on those analyses by the end of the year. After those three analyses take place the Fisher Island budget will be next.

Ethics Training: Mr. Rodriguez asks if anyone has not complete the training. Mr. Ostrow responds that everyone has taken the training.

6. Next Meeting of the Fisher Island MAC

After discussing availability among members the next meeting of the MAC is scheduled for **Wednesday, January 18, 2006, 6PM.**

7. Adjournment: Motion was made for adjournment and seconded and the meeting was adjourned.